

Message Text

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ACTION L-03

INFO OCT-01 IO-13 ADP-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

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NSAE-00 NSC-10 PA-03 PRS-01 SS-15 USIA-15 COA-02 EB-11

JUSE-00 ACDA-19 AEC-11 AGR-20 COME-00 DOTE-00 FMC-04

INT-08 NSF-04 OMB-01 TRSE-00 SCI-06 CEQ-02 EPA-04

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TO SECSTATE WASHDC 1368
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SUBJECT: LOS: STATEMENT BY AMBASSADOR STEVENSON IN MAIN
COMMITTEE AUGUST 22

FOLLOWING IS TEXT OF STATEMENT GIVEN BY AMBASSADOR
JOHN R. STEVENSON, CHAIRMAN OF US SEABED COMMITTEE
DELEGATION IN MAIN COMMITTEE AUGUST 22.

QUOTE. IN THE NEXT FEW MONTHS NATIONS WILL BE MAKING
CRITICAL DECISIONS IN PREPARATION FOR THE CONFERENCE ON
THE LAW OF THE SEA.

EACH OF OUR COUNTRIES HAS A NUMBER OF IMPORTANT
INTERESTS INVOLVED IN THIS NEGOTIATIONS. THE QUESTION
WE MUST ASK OURSELVES IS HOW THESE CAN BE ACCOMMODATED
FOR THE BENEFIT OF ALL WITHIN A FRAMEWORK OF BROAD AGREE-
MENT AMONG STATES ON THE LAW OF THE SEA. SURELY NONE OF
US CAN CONTEMPLATE WITH SERENITY WHAT THE WORLD WOULD BE
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LIKE IN THE ABSENCE OF A TIMELY AND SUCCESSFUL CONFERENCE.

THE OCEANS ARE PART OF OUR IMMEDIATE ENVIRONMENT, AND ARE BEING USED WITH INCREASING INTENSITY EVERY DAY. AS OCEAN USES INTENSIFY, THE POTENTIAL FOR CONFLICT INCREASES. THERE IS A RISK OF CONFLICT ANY TIME ONE STATE OR A GROUP OF STATES ATTEMPTS TO ALTER IMPORTANT LEGAL RIGHTS THAT ANOTHER STATE BELIEVES IT HAS. THERE IS ALSO A RISK OF CONFLICT IF THE LAW DOES NOT RESPOND ADEQUATELY AND WITH REASONABLE PROMPTNESS TO CHANGING NEEDS.

TO AVOID THESE RISKS, WE MUST NOT ONLY SEEK A TREATY; WE MUST SEEK A TREATY THAT IS WIDELY ACCEPTABLE TO ALL SEGMENTS OF THE INTERNATIONAL COMMUNITY. A MERE VOTING "VICTORY" OF ONE OR MORE GROUPS OF INTERESTS, EVEN BY A SUBSTANTIAL MAJORITY, WILL NOT PRODUCE SUCH A RESULT. BOTH THE PROCEDURES ADOPTED AND THE SUBSTANTIVE POSITIONS NATIONS ADVOCATE MUST BE FORMULATED IN A MANNER THAT CAN BEST ENSURE UNIVERSAL ACCEPTANCE OF THE TREATY. OTHERWISE, OUR EFFORTS WILL HAVE BEEN FOR NAUGHT.

THE INTENSIFICATION OF OCEAN USES ALSO MEANS THAT WE CANNOT AFFORD FURTHER DELAY. WE BELIEVE THAT THE GREAT MAJORITY OF DELEGATIONS, ALTHOUGH REFLECTING MANY SHADES OF OPINION, ARE COMMITTED TO A TIMELY CONFERENCE AND DO NOT SHRINK FROM THE CHALLENGE OF ACCOMMODATING EACH OTHER'S INTERESTS.

CERTAINLY, WE SHOULD GO TO SANTIAGO AS WELL PREPARED AS POSSIBLE. BUT ADDITIONAL PREPARATION BEFORE SANTIAGO IS NOT INCONSISTENT WITH ADHERENCE TO THE CONFERENCE SCHEDULE, AND SHOULD NOT BE PERMITTED TO DIVERT US FROM THE BASIC OBJECTIVE OF A TIMELY AND SUCCESSFUL CONFERENCE. THE EXPERIENCE OF THIS FINAL PREPARATORY SESSION OF THE SEABEDS COMMITTEE WOULD SUGGEST THAT UNTIL THE CONFERENCE ITSELF IS ACTUALLY UNDERWAY MANY STATES WILL POSTPONE THOSE HARD DECISIONS ON OCEANS POLICY WHICH CAN ALONE AFFORD THE BASIS FOR EFFECTIVE NEGOTIATIONS AS WELL AS THE POLITICAL DIRECTION FOR THE COMPLETION OF THE TECHNICAL WORK OF DRAFTING TREATY ARTICLES. POSTPONING THE COMMENCEMENT OF THE CONFERENCE, EVEN FOR A FEW MONTHS, MIGHT NOT ONLY

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DELAY THE COMMENCEMENT OF EFFECTIVE NEGOTIATIONS BUT JEOPARDIZE THEIR SUCCESS. PRESSURE FOR UNILATERAL ACTION MAY MOUNT WITHIN OUR RESPECTIVE COUNTRIES, AND REGIONAL AND OTHER INTEREST GROUPS MAY HARDEN THEIR POSITIONS. FAR FROM CONSIDERING DELAY WE MUST RECOGNIZE AND ACT UPON THE FACT THAT OCEAN USES ARE DEVELOPING SO QUICKLY THAT IN SOME RESPECTS IT WILL BE NECESSARY FOR THE CONFERENCE TO SEEK MEANS TO ENSURE THE IMMEDIATE IMPLEMENTATION OF SOME

PARTS OF THE LAW OF THE SEA TREATY.

IF THE CONFERENCE ACHIEVES BROAD AGREEMENT THAT ADEQUATELY ACCOMMODATES THE INTERESTS INVOLVED, THERE IS NO REASON WHY THERE SHOULD BE PROVISIONAL APPLICATION ONLY WITH RESPECT TO THE DEEP SEABEDS PORTION OF THE TREATY AS WE PROPOSED AT THE MARCH SESSION OF THIS COMMITTEE. FOR OUR PART, WE RECOGNIZE THAT MANY STATES REGARD THE NEED FOR A NEW AGREED REGIME ON OTHER MATTERS, SUCH AS FISHERIES, AS EQUALLY URGENT, IF NOT MORE SO. WE HAVE ALREADY WITNESSED TOO MUCH CONFLICT BETWEEN STATES ON THESE ISSUES. IT WOULD BE UNFORTUNATE INDEED FOR DISPUTES TO CONTINUE, AFTER WE HAVE ACHIEVED A SOLUTION IN A TREATY AT THE CONFERENCE, WHILE WAITING FOR COMPLETION OF THE RATIFICATION PROCESS. CERTAIN DELEGATIONS INQUIRED IN MARCH IF THE UNITED STATES WOULD BE PREPARED TO SUPPORT THE PROVISIONAL APPLICATION OF THE FISHERIES ASPECTS AS WELL AS THE DEEP SEABEDS ASPECTS OF A LAW OF THE SEA TREATY FOR THE PERIOD BETWEEN SIGNATURE AND RATIFICATION OF THE TREATY. MR. CHAIRMAN, WE ARE PREPARED TO SUPPORT PROVISIONAL APPLICATION FOR BOTH THE DEEP SEABEDS AND FISHERIES ASPECTS OF THE TREATY, AND TO CONSIDER PROVISIONAL APPLICATION IN CONNECTION WITH OTHER ASPECTS OF THE TREATY AS WELL. IN THIS CONNECTION, WE ARE CONSIDERING AND HOPE OTHER STATES WILL ALSO CONSIDER HOW SUCH PROVISIONAL APPLICATION CAN BEST BE EFFECTED UNDER DOMESTIC LAW.

IN ORDER TO ACHIEVE WIDELY ACCEPTABLE AGREEMENT AT THE CONFERENCE, THERE OBVIOUSLY MUST BE SOME COMMON UNDERSTANDING OF WHAT THE MAJOR ELEMENTS OF A TIMELY AND SUCCESSFUL CONFERENCE ARE. I WILL NOT RESTATE AT THIS TIME OUR VIEWS AS TO WHAT THESE ELEMENTS ARE. HOWEVER, AN IMPORTANT POINT TO BEAR IN MIND IN ASSESSING THEM IS

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THAT WE CANNOT RESOLVE MAJOR ISSUES BY RELYING ON COASTAL STATES ALONE TO EXERCISE THEIR RIGHTS IN A MANNER CONSISTENT WITH THE INTERESTS OF OTHERS. AT BEST, SUCH AN APPROACH WOULD DEPRIVE OTHER STATES OF THEIR RIGHT TO PARTICIPATE IN DETERMINING HOW THEIR INTERESTS WILL BE DEFINED AND PROTECTED. ACCORDINGLY, WE BELIEVE THERE SHOULD BE NO RIGHTS WITHOUT CORRESPONDING ENFORCEABLE DUTIES RELATED TO THE EXERCISE OF THOSE RIGHTS. THE PROBLEM WITH DOCTRINES OF RIGHTS WITHOUT DUTIES IS THAT THEY DO NOT REFLECT THE REALITIES OF INTERNATIONAL INTERDEPENDENCE. EVERY STATE HERE IS PARTY TO TREATIES AND SUBJECT TO RULES OF INTERNATIONAL LAW THAT, IN FACT, LIMIT THE EXERCISE OF ITS RIGHTS EVEN IN ITS OWN TERRITORY; WE COULD

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TO SECSTATE WASHDC 1369
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A SIMILAR ANALYSIS APPLIES TO THE RELATIONSHIP WHICH WILL BE ESTABLISHED WITH A NEW SEABED INTERNATIONAL MACHINERY. IF STATES ARE TO AGREE TO GIVE IT SIGNIFICANT POWERS, WE MUST AT THE SAME TIME TAKE CONCOMITANT STEPS TO ASSURE THAT THE TREATY ITSELF DEFINES AND CLEARLY SPECIFIES THE LIMITS OF ITS MANDATE AND ALSO ASSURES THAT IN ITS OPERATION THE INTERESTS OF ALL STATES ARE PROPERLY REFLECTED IN ITS DECISION MAKING PROCESSES AND IN ITS RULE MAKING SYSTEM.

MY DELEGATION APPRECIATES THE FACT THAT PROPOSALS OF STATES ARE INTENDED FOR NEGOTIATION. NEVERTHELESS, WHILE WE HAVE ATTEMPTED TO READJUST OUR PROPOSALS TO ACCOMMODATE THE VIEWS AND INTERESTS OF OTHERS, WE HAVE THUS FAR NOT SEEN SUFFICIENTLY SIMILAR MOVEMENT ON THE PART OF SOME OTHERS. IF THIS WERE TO CONTINUE AT SANTIAGO, WE COULD APPROACH THE POINT WHERE THE POTENTIAL FOR ACHIEVING A WIDESPREAD ACCOMMODATION OF MAJOR POINTS OF VIEW WOULD BE LOST. THIS NEGOTIATION WILL FAIL IF WE ATTEMPT TO DERIVE
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SOLUTIONS TO ALL ISSUES FROM CONCEPTS OF ABSOLUTE RIGHTS OR ABSOLUTE FREEDOMS. WE REGARD AS INADEQUATE, ARGUMENTS THAT ONE PROPOSAL OR ANOTHER IS UNACCEPTABLE

BECAUSE IT IS INCONSISTENT WITH CERTAIN GENERAL CONCEPTS SUCH AS "NATIONAL SOVEREIGNTY" OR AN "EXCLUSIVE ECONOMIC ZONE". WE CANNOT ACCOMMODATE THE SUBSTANTIVE INTERESTS OF STATES SIMPLY BY THE PROCESS OF DEDUCTIVE REASONING FROM SUCH GENERAL CONCEPTS. ON THE OTHER HAND, THE RESULTS OF THE SUBSTANTIVE NEGOTIATIONS ON STATES' REAL INTERESTS MAY BE EXPRESSED IN TREATY LANGUAGE AND LEGAL CONCEPTS THAT TAKE INTO ACCOUNT POLITICAL AND JURIDICAL SENSITIVITIES AND THE NEED FOR MAXIMUM ACCEPTANCE OF THE TREATY.

MR. CHAIRMAN, IN THE ENSUING NEGOTIATIONS WE SHALL ALL BE ASKED TO SETTLE FOR LESS THAN OUR VIEW OF THE OPTIMUM RESULTS IN THE INTEREST OF AVOIDING INTERNATIONAL CONFLICT IN THE OCEANS. IN DOING SO WE HAVE NO DESIRE TO REPEAT THE MISTAKES OF 1958, WHERE WE COMPROMISED WITH STATES THAT ULTIMATELY DID NOT BECOME PARTIES TO THE TREATY, AND WHERE THERE WERE NO MECHANISMS TO ENSURE THAT CONFLICT COULD BE AVOIDED OR RESOLVED. AS A RESULT, DISAGREEMENT CONTINUED BOTH AS TO THE LEGAL RULES GOVERNING THE USE OF THE OCEANS AND AS TO THEIR PROPER INTERPRETATION AND APPLICATION. IN BRIEF, WE REGARD A SYSTEM OF INCENTIVES TO ENSURE RATIFICATION AND A SYSTEM OF PEACEFUL AND COMPULSORY SETTLEMENT OF DISPUTES AS ESSENTIAL ASPECTS OF AN OVERALL COMPREHENSIVE LAW OF THE SEA SETTLEMENT.

MR. CHAIRMAN, MY DELEGATION HAS BEEN CONSIDERING THE ISSUE OF PROCEDURES FOR COMPULSORY DISPUTE SETTLEMENT FOR SOME TIME. FOR THIS REASON, ALL OF THE DRAFT ARTICLES WE HAVE INTRODUCED AT THIS SESSION CONTAIN A CROSS-REFERENCE TO A SECTION OF THE LAW OF THE SEA TREATY ON THIS MATTER, BUT DO NOT ADDRESS THE ISSUE OF PROCEDURES. OUR GENERAL VIEW IS THAT A SYSTEM IS NEEDED THAT ENSURES, TO THE MAXIMUM POSSIBLE EXTENT, UNIFORM INTERPRETATION AND IMMEDIATE ACCESS TO DISPUTE SETTLEMENT MACHINERY IN URGENT SITUATIONS, WHILE AT THE SAME TIME PRESERVING THE FLEXIBILITY OF STATES TO AGREE TO RESOLVE THEIR DISPUTES BY A VARIETY OF MEANS. WE HAVE NOTED IN PARTICULAR THE WISHES OF MANY STATES TO RESOLVE
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DISPUTES ON THE BASIS OF PROCEDURES AGREED ON A REGIONAL BASIS. WHAT HAS EMERGED IN OUR CONSIDERATION OF THIS QUESTION IS THE IDEA OF DISPUTE SETTLEMENT BY GENERAL, REGIONAL OR SPECIAL AGREEMENT BUT WITH A LAW OF THE SEA TRIBUNAL, WHICH WOULD BE AVAILABLE IN CASES WHERE STATES DO NOT AGREE TO SETTLE THE DISPUTES THROUGH OTHER PROCEDURES. WE HAVE JUST INTRODUCED DRAFT ARTICLES ON THIS SUBJECT IN THE MAIN COMMITTEE AND HOPE THAT IN THE COMING MONTHS WE SHALL HAVE THE OPPORTUNITY TO DISCUSS THESE ANNEXED DRAFT ARTICLES WITH A NUMBER OF DELEGATIONS TO OBTAIN THEIR COMMENTS AND HOPEFULLY THEIR SUPPORT.

WE DO NOT BELIEVE THAT THE SUBSTANTIVE ARTICLES OF THE
TREATY THAT EMERGE FROM THE CONFERENCE WILL, IN AND OF THEM-
SELVES, CONSTITUTE A COMPLETE ANSWER TO THE BASIC PROBLEM
OF AVOIDING CONFLICT REGARDING THE OCEANS THAT IS THE REAL
JUSTIFICATION FOR THIS NEGOTIATION. THESE ARTICLES MAY
NARROW MANY OF THE ISSUES ON WHICH DISPUTES OCCUR. THEY
WILL NOT ELIMINATE THE NEED FOR MEANS TO ENSURE THE PEACE-
FUL SETTLEMENT OF DISPUTES THAT ARE BOUND TO ARISE. OUR
FUNDAMENTAL PREMISE FOR ACHIEVING A BROADLY RATIFIED TREATY
IS THAT OBJECTIONS TO COASTAL STATE OR FLAG STATE
JURISDICTION, AS THE CASE MAY BE, CAN BE MET BY PLACING
CONCRETE DUTIES ON THE STATE EXERCISING SUCH JURISDICTION.
SINCE THOSE DUTIES ARE DESIGNED TO ENSURE PROTECTION FOR
THE INTERESTS OF OTHERS, CONFIDENCE THAT THOSE DUTIES WILL
BE FAIRLY OBSERVED IS LIKELY TO SPELL THE DIFFERENCE BE-
TWEEN A SUCCESSFUL AND UNSUCCESSFUL CONFERENCE.

FOR OUR PART,
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